149 FERC ¶ 61,134
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Dominion Transmission, Inc. Docket No. RP13-431-003

ORDER ON REHEARING

(Issued November 20, 2014)

Introduction

1. On March 24, 2014, Indicated Shippers[1] filed a request for rehearing of the Commission's February 20, 2014, order on rehearing and compliance filing (February 2014 Order).[2] In this order, we deny the request for rehearing regarding section 35.2 of the General Terms and Conditions (GT&C) of Dominion Transmission, Inc.'s (Dominion) tariff.

Background

2. On December 31, 2012, Dominion filed proposed revisions to its tariff to comply with the Commission's policy concerning reservation charge credits, as discussed in *Natural Gas Supply Association*[3] (December 31 Filing). We describe below those provisions relevant to the issues raised by Indicated Shippers in their request for rehearing of the February 2014 Order.

3. Dominion proposed, and the Commission accepted, revisions to Dominion's tariff provisions concerning the calculation of reservation charge credits provided to firm storage customers. Dominion's firm storage rates include two reservation charges. One reservation charge, the "Storage Demand Charge," is based on the shippers' maximum

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[1] Indicated Shippers joining in the request for rehearing are BP Energy Company, Cross-Timbers Energy Services, Inc., and Shell Energy North America (US), L.P.

[2] *Dominion Transmission, Inc.*, 146 FERC ¶ 61,101 (2014) (February 2014 Order).

[3] 135 FERC ¶ 61,055, at P 2 (*NGSA)*, *order on reh'g*, 137 FERC ¶ 61,051 (2011).

daily entitlements to withdraw gas from storage. The other reservation charge, the "Storage Capacity Charge," is based on the shippers' maximum storage inventory entitlements. Dominion proposed to eliminate current GT&C section 35.2B, which describes the Storage Demand Charge credits Dominion must provide when it is unable to schedule a storage shipper's daily nomination of a storage withdrawal. Dominion proposed to replace that provision with GT&C section 45.1.C.2, providing that on days when Dominion is unable to provide storage withdrawals, it would provide Storage Demand Charge credits in the same manner as it provides reservation charge credits for its transportation services.

4. However, Dominion proposed to retain its existing section 35.2.A concerning the Storage Capacity Charge and Storage Demand Charge credits it will provide when it is unable to inject gas into storage up to a shipper's maximum storage inventory entitlements during the April to October summer injection period. Under that section, if the shipper's Storage Gas Balance is less than its total storage inventory entitlement at the end of the Summer Period due to Dominion's inability to inject into storage the gas nominated by the shipper during the Summer Period, both the Storage Demand Charge and the Storage Capacity Charge are proportionately reduced.

5. On February 27, 2013, the Commission issued an order accepting the proposed revisions, effective March 1, 2013, subject to conditions (February 2013 Order).[4] In that order, the Commission required Dominion to further explain, in a compliance filing, its proposal to retain GT&C section 35.2.A, in response to Indicated Shippers' protest.[5] Specifically, the Commission found that Dominion did not sufficiently explain the reason it calculated credits for its inability to inject gas on a seasonal basis, while calculating credits for its inability to withdraw gas on a daily basis.[6]

6. Dominion made the compliance filing required by the February 2013 Order on March 28, 2013 (Compliance Filing). Dominion contended that the different crediting provisions for storage injections and withdrawals appropriately reflected the daily nature of withdrawals and the seasonal nature of injections. In particular, Dominion explained that customers of its firm storage service inject gas into storage during the April through October period and withdraw gas from storage during the November through March period. Withdrawal is needed on a particular day, Dominion stated, because withdrawals from storage are nominated to meet winter heating needs. Therefore, Dominion proposed

[4] *Dominion Transmission, Inc.*, 142 FERC ¶ 61,154 (2013).

[5] *Id.* P 61.

[6] *Id.* PP 56–61.

to credit Storage Demand Charges if it fails to deliver a withdrawal on a particular day. In the case of injection, however, Dominion continued, customers nominate injections to ensure the level of gas in storage meets their total storage capacity entitlement by the end of the summer season. As such, Dominion's proposed crediting provision proportionately reduces both the Storage Capacity Charge and the Storage Demand Charge for the applicable storage year if the gas balance at the end of the summer period is less than the contracted-for storage capacity because of Dominion's inability to inject gas.

7. Dominion further explained that its storage rates do not require shippers to pay reservation charges specifically tied to their entitlement to inject gas during the summer season, but rather they pay a Storage Demand Charge based on the entitlement to withdraw gas and a Storage Capacity Charge based on the entitlement to maintain an inventory of gas. Dominion stated that its tariff ensures a customer receives full credit if Dominion fails to inject the full quantity of gas by the end of the summer season by: (1) reducing the Storage Capacity Charge for the entire storage year proportionate to the amount of capacity the customer was unable to use, pursuant to GT&C section 35.2; (2) crediting the Storage Demand Charge at the end of the injection season for storage withdrawals that are unavailable due to Dominion's failure to fill the storage capacity, also pursuant to section 35.2; and (3) further crediting the Storage Demand Charge for outages during the winter season that prevent Dominion from withdrawing natural gas on a particular day, pursuant to GT&C section 45.

8. In its protest to the Compliance Filing, Indicated Shippers asserted that Dominion had not adequately supported providing reservation charge credits for the unavailability of injection service on a seasonal rather than on a daily basis. Indicated Shippers rejected Dominion's contention that, because the firm storage shippers can plan injections over the injection season, the unavailability of injection service on particular days does not have the same day-to-day impact as the unavailability of withdrawal service. Indicated Shippers contended that a billing adjustment alone would be inadequate to fully compensate storage customers for the unavailability of withdrawals due to an earlier unavailability of injection rights. Indicated Shippers also contended in the protest that the unavailability of injection rights on particular days could jeopardize the availability of storage withdrawals. Specifically, Indicated Shippers noted that Dominion's Rate Schedule General Storage Service (GSS), section 7.4.A, limits a storage shipper's daily injection rights during the injection season to 1/180th of contracted capacity when the shipper's balance is less than 50 percent full, and 1/214th when it is more than 50 percent full.

9. In the February 2014 Order, the Commission found that Dominion's explanation for its reservation charge crediting provisions concerning storage injections and withdrawals was reasonable and in compliance with the Commission's reservation charge crediting policies.[7] The Commission explained that, when pipeline service is interrupted, such that a firm shipper cannot use the capacity it has paid for through a reservation charge, pipelines must credit shippers for that interruption.[8] On the other hand, the Commission continued, usage charges need not be credited because the shipper only pays those charges when the gas is transported. Therefore, the Commission reasoned, since Dominion's storage customers do not pay a reservation charge for their daily entitlement to inject gas, when Dominion cannot make those injections on a particular day, there is no reservation charge to credit.[9]

10. In response to Indicated Shippers' argument that Dominion's injection restrictions or other exigencies could prevent a shipper from increasing future injections to make up for the unavailability of injection on a particular day, the Commission stated that Dominion's tariff provides for reasonable reservation charge credits to remedy those situations.[10] The Commission stated that shippers are fully compensated for any reduction in their ability to withdraw gas caused by Dominion's inability to inject gas into storage during the summer period through the credits against the Storage Capacity Charge and the Storage Demand Charge proportionate to the shippers' resulting unused storage entitlements. In addition, if during any particular day during the winter withdrawal period, Dominion is unable to deliver a storage withdrawal of gas the shipper did inject into storage, Dominion must provide a reservation charge credit applicable to that day. The Commission also denied Indicated Shippers' request for rehearing of the February 2013 Order on other grounds.

<u>Rehearing Request</u>

11. Indicated Shippers have requested rehearing of the February 2014 Order. Indicated Shippers contend that the February 2014 Order erred in accepting Dominion's storage crediting mechanism. Indicated Shippers argue that Dominion's mechanism is flawed because it provides no reservation charge credits for the unavailability of injection

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[7] February 2014 Order, 146 FERC ¶ 61,101 at PP 1, 36, 44.

[8] *Id.* P 44 (citing *NGSA*, 135 FERC ¶ 61,055 at P 15).

[9] *Id.*

[10] *Id.* P 45 (explaining that, under GT&C section 35.2, Dominion credits both the Storage Capacity Charge and the Storage Demand Charge under such scenarios).

service, even though Dominion recovers the fixed costs attributable to injection service in its reservation charges. Indicated Shippers assert that Dominion's policy fails to recognize the separate reservation charges for the capacity and withdrawal components of firm storage service, and the corresponding fact that shippers may have differing contract demands for each component.[11] This differs from transportation service, where it is typical for shippers to have a single contract demand and pay a single reservation charge that collects all of the fixed costs of that service. According to Indicated Shippers, Dominion recovers the fixed costs of the injection component of its storage service through its Storage Demand and/or Storage Capacity Charges.[12] When Dominion is unable to provide injection service on a particular day, Indicated Shippers argue, storage shippers do not receive a service for which they have paid, and therefore they should be proportionally credited pursuant to the Commission's reservation charge crediting policy.[13]

12. Indicated Shippers also contend that the Commission, in the February 2014 Order, failed to address how Dominion's reservation charge crediting provisions concerning injection service further the purpose of the Commission's reservation charge crediting policy in the context of non-*force majeure* situations.[14] Indicated Shippers explain that Dominion bills shippers monthly for the Storage Demand and the Storage Capacity Charges throughout the year, commencing on April 1, through which Dominion recovers the fixed costs of injection service.[15] The volumetric injection and withdrawal charges included in the billing are based on actual quantities injected and withdrawn. Indicated Shippers state that the purpose of the reservation charge credit policy for non-*force majeure* events is "to 'provide an incentive for the pipeline to manage its system so that it

[11] Indicated Shippers Request for Rehearing at 6 (citing *Northwest Pipeline Corp.*, 87 FERC ¶ 61,266, at 62,082 (1999) (*Northwest*), *order on reh'g*, 92 FERC ¶ 61,287 (2000)).

[12] *Id.* at 7 (citing February 2014 Order, 146 FERC ¶ 61,101 at P 43).

[13] *Id.*

[14] *Id.* at 9 (citing *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) and *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

[15] *Id.* at 7 (citing Dominion Transmission, Inc., FERC Gas Tariff, Fourth Revised Vol. No. 1, Tariff Record 20.20, General Storage Service §§ 5.1A, 5.1B). Indicated Shippers note that the start of the billing cycle coincides with the start of the injection season.

can avoid interruptions that it could have avoided if it had better managed its system.'"[16] According to Indicated Shippers, because firm storage service includes both an injection and a withdrawal component, Dominion would not be properly incentivized to avoid interruptions unless both components were subject to reservation charge crediting.[17] Indicated Shippers argue that the crediting provided for injection service should correspond to that provided for withdrawal service because a storage shipper loses both the ability to call on storage during the withdrawal season and to plan during the injection season by acquiring supply and transportation arrangements.[18] Indicated Shippers assert that a billing adjustment during the withdrawal season is insufficient to recompense a customer that could not fill its storage capacity during the injection season, particularly given the high demand during the 2013–2014 heating season, which could happen again in the 2014–2015 season.[19]

Discussion

13. We deny the request for rehearing for the reasons discussed below.

14. We continue to find that Dominion has reasonably proposed not to provide reservation charge credits for the quantities it is unable to inject into service on a particular day during the summer period. In the February 2014 Order, we found that no such credits are required because Dominion's storage customers do not pay any reservation charges in connection with their daily contractual entitlement to inject gas into storage, with the result that there is no applicable reservation charge to credit. Rather, the storage customers pay the Storage Capacity Charge for their maximum entitlement to maintain an inventory of gas in storage and the Storage Demand Charge for their maximum daily entitlements to withdraw gas from storage.

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[16] *Id.* at 8 (quoting *NGSA*, 135 FERC ¶ 61,055 at P 19 (quoting *Tennessee Gas Pipeline Co.*, Opinion No. 406, 76 FERC ¶ 61,022, at 61,086 (1996), *order on reh'g*, Opinion No. 406-A, 80 FERC ¶ 61,070 (1997))).

[17] *Id.*

[18] *Id.*

[19] *Id.* at 8–9. Indicated Shippers point out that Dominion posted on March 17, 2014, an advisory to "storage shippers that the current working gas storage inventory has fallen considerably below the prior two years' inventory for the same week (through March 13, 2014 Gas Day)." *Id.* at 8.

15. Indicated Shippers contend that Dominion's fixed costs associated with its ability to inject gas into storage are included in the Storage Capacity and Demand Charges, and therefore storage customers do pay a reservation charge for injection service. While all of Dominion's fixed costs allocated to its storage services are included in its two storage reservation charges, this does not alter the fact that storage customers pay the Storage Capacity Charge for their entitlements to maintain natural gas in storage and they pay the Storage Demand Charge for their entitlements to withdraw gas from storage, and neither reservation charge is based on their entitlements to inject gas into storage.

16. These facts are made clear in *Northwest Pipeline Corp.*,[20] to which Indicated Shippers cite, describing the Commission's policy concerning the design of firm storage rates. *Northwest* consistently describes the two reservation charges for storage service as charges for storage capacity and for daily deliveries out of storage, and not charges for daily injections into storage. In that case, the Commission explained that its policy requiring a two-part reservation charge for firm storage service is based on a finding that storage service involves two products: "the products are storage capacity and storage deliverability."[21] Therefore, there are separate reservation charges for these two components of storage service—one for the "actual storage of the gas in the storage facility," and a second for "the delivery of gas out of storage to the customer." [22] Recognizing that "[d]ifferent customers may have different needs for the two components of storage service," the Commission explained that the separate charges "ensure that storage service revenue responsibility more closely reflects what each storage customer's storage service needs are."[23] The Commission provided, as an example, the scenario in which two customers want the same amount of withdrawal service (e.g., 50,000 Dth/day), but want to store that gas for different periods of time (e.g., 60 days versus 120 days). With the two-part reservation charge, the Commission explained that a customer wanting to store the gas for longer (e.g., 120 days) will pay more for its service because it uses "a greater portion of the storage assets of the company" than a customer that wants to withdraw the gas sooner (e.g., after only 60 days).[24]

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[20] *Northwest*, 87 FERC at 62,082.

[21] *Id*.

[22] *Id*.

[23] *Id.*

[24] *Id.*

17. In designing a rate mechanism that recognizes the capacity and deliverability aspects of storage service, *Northwest* stated "it is difficult to determine how much of the costs should be assigned to deliverability or capacity, since both aspects are necessary for providing the storage service;" in fact, the Commission explained that it prefers the "*Equitable* Method" for assigning costs, which provides for the assignment of storage service charges "equally to both fixed charges" because "[s]torage facilities are built equally for storage capacity and deliverability."[25] Moreover, storage capacity and storage deliverability, according to the Commission are "directly related to [each] other but neither is saleable on its own," meaning that "the storage capacity is useless without the demand for deliverability" and "the deliverability cannot be sustained without the inventory in storage."[26]

18. It follows from the fact that one of the storage reservation charges is paid for a storage customer's entitlement to storage capacity, and the other is paid for a storage customer's entitlement to have gas delivered out of storage, that neither reservation charge is paid for the entitlement to inject gas into storage. Thus, as Dominion pointed out in its Answer to Indicated Shippers' Protest, its storage rates do not require shippers to pay a reservation charge specifically tied to their entitlements to inject gas into storage during the injection season.[27] Rather, the Storage Demand Charge is based on the customer's entitlement to withdraw gas from storage and the Storage Capacity Charge is based on the customer's entitlement to maintain an inventory of gas in storage. As the Commission found in the February 2014 Order, when Dominion is unable to inject gas on a particular day, "there is no applicable reservation charge to credit."[28] Accordingly, contrary to Indicated Shippers' position, Dominion is not required to provide a proportional or daily entitlement reservation charge credit for the failure to inject gas into storage on any particular day, because the shipper has not paid a reservation charge for its daily entitlement to inject gas into storage.

19. While Dominion did not propose to provide reservation charges when it is unable to inject gas into storage on a particular day, Dominion's tariff does provide reasonable reservation charge credits when Dominion's inability to inject gas into storage causes firm storage customers to be unable to fill their reserved storage capacity by the end of the injection season. As explained in the February 2014 Order, pursuant to GT&C

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[25] *Id.* at 62,082–83.

[26] *Id.* at 62,083.

[27] Dominion Transmission, Inc. Answer at 2.

[28] February 2014 Order, 146 FERC ¶ 61,101 at P 44.

section 35.2, if a storage customer has less than the contracted-for capacity of gas in storage at the end of the injection season due to the unavailability of injection service, Dominion must credit both the customer's Storage Capacity Charge for the amount of capacity the customer was unable to utilize and the Storage Demand Charge for the unavailability of storage withdrawals resulting from the failure to fill the storage capacity.[29] Consequently, if a customer cannot schedule an injection on a particular day, and if the customer is unable to inject that quantity of gas before the end of the injection season, the customer will receive appropriate credits at that time for the unavailability of injection service. As the Commission explained in *Northwest*, "the storage capacity is useless without the demand for deliverability" and "the deliverability cannot be sustained without the inventory in storage."[30] This inseparability accounts for Dominion's decision to credit shippers at the end of the injection season, rather than for the inability to inject gas into storage on a particular day, and to further credit them for the inability to withdraw during the winter season. This accords with the Commission's example in *Northwest*, in which the Commission required the customer that used "a greater portion of the storage assets of the company" to pay more.[31]

20. We also reaffirm the Commission's finding in the February 2014 Order that GT&C section 35.2 does provide storage shippers reasonable credits for the two storage service reservation charges for which they have paid under Dominion's tariff.[32] Storage customers pay the Storage Demand Charge and Storage Capacity Charge monthly beginning on April 1, but will not know whether they were unable to fill all of their storage capacity due to Dominion's failure to make injections until the end of the summer season (October 31).[33] Indicated Shippers assert that section 35.2 only requires Dominion to provide reservation charge credits against the shipper's monthly reservation charge payments made after the end of the summer injection season. Indicated Shippers assert that Dominion's tariff will only appropriately credit customers for the unavailability of injection service during the summer season, and for the inability to meet a withdrawal request during the winter season, if it credits customers for the Storage

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[29] February 2014 Order, 146 FERC ¶ 61,101 at P 45; Dominion Transmission, Inc., FERC Gas Tariff, Fourth Revised Vol. No. 1, Tariff Record 40.42, GT&C § 35.2.

[30] *Northwest*, 87 FERC at 62,083.

[31] *Id.* at 62,082.

[32] February 2014 Order, 146 FERC ¶ 61,101 at P 45.

[33] Dominion Transmission, Inc., FERC Gas Tariff, Fourth Revised Vol. No. 1, Tariff Record 20.20, General Storage Service §§ 5.1A, 5.1B.

Demand and Storage Capacity Charges paid during the precedent April through October period. Moreover, they argue that Dominion will only be properly incentivized to prevent non-*force majeure* outages if the crediting mechanism works in this way.[34]

21. Section 35.2 does in fact require Dominion to provide credits against the full annual Storage Demand and Storage Capacity Charges, including amounts paid during the April through October period, as Indicated Shippers assert it should.

22. GT&C section 35.2 provides, in relevant part:

> If, at the end of the Summer Period, Customer's Storage Gas Balance is less than Customer's Storage Capacity due solely to Pipeline's inability to inject gas in accordance with Schedule 7 of Rate Schedules GSS and GSS-E, then the Storage Demand Charge applicable for the current Storage Year shall be that part of the total Storage Demand Charge herein provided which Customer's Storage Gas Balance as of such date bears to Customer's Storage Capacity. The same proportionate reduction shall be made in the Storage Capacity for the same one-year period.[35]

GT&C section 1.1AE defines "Summer Period" as "the period of seven consecutive months beginning on April 1 of any calendar year and ending on October 31 of the same calendar year." GT&C section 1.3D defines "Storage Year" as "the one-year period beginning April 1 of any year and ending on March 31 of the following year." With this context, the Commission interprets GT&C section 35.2 to mean that Dominion will proportionately reduce a storage customer's Storage Demand and Storage Capacity charges, as of October 31, for the entire Storage Year, which began on the preceding April 1. Taking these tariff provisions together, the Commission finds that Dominion's existing section 35.2 requires it to credit to the storage customer the proportionate amount of Storage Demand and Storage Capacity Charges paid prior to the end of the summer season (as of the start of the Storage Year on April 1) in addition to prospective charges for the remainder of the Storage Year.

23. This interpretation of section 35.2 is consistent with our description of that section in the February 2014 Order by requiring credits against the "annual Storage Capacity

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[34] *See* Opinion No. 406, 76 FERC at 61,086 (requiring "adequate compensation to customers and adequate incentive for [the pipeline] to avoid interruptions within its control").

[35] Dominion Transmission, Inc., FERC Gas Tariff, Fourth Revised Vol. No. 1, Tariff Record 40.42, GT&C § 35.2.

Charge for the relevant storage year . . . and the shipper's annual Storage Demand Charge."[36] Accordingly, we again find that Dominion's tariff provisions concerning reservation charge credits for the interruption of storage service comply with Commission policy.

24. For the reasons discussed above and in the February 2014 Order, we deny the request for rehearing.

<u>The Commission orders</u>:

The Indicated Shippers' request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[36] February 2014 Order, 146 FERC ¶ 61,101 at P 45.